IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.19 OF 2005

Shivdayal Maheshwari ...Appellant

Vs.

M.L.Mehtaney ...Respondent

Shri A.M.Saraogi for the Appellant
Shri Ajay Samant with Piyush Shah for respondent.

CORAM: A.S.OKA, J.
DATED: JANUARY 10, 2005.

P.C.:

1. The challenge in this Appeal is to the order passed by the learned Trial Judge on 3rd January 2005 by which the prayer ad-interim relief has been rejected by the learned Trial Judge. Granting ad-interim relief as prayed will amount to permitting Appellant/Plaintiff to construct fencing or boundary. Considering the facts and circumstances of the case, I find no fault with the impugned order. The Notice of Motion is still pending and it is bound to be considered on its own merits. The impugned order shows that the reply was directed to be filed till 11th January 2005.

2. Hence, Appeal is dismissed with no order as to costs.

3. It is obvious that the observations made by the learned Trial Judge in the impugned order will not bind him while deciding the Notice of Motion. The Notice of Motion will be decided on its own merit. The Respondent is directed to file reply to the Notice of Motion within a period of one week from today. The learned Trial Judge will decide the Notice of Motion as expeditiously as possible.

Judge.